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The Fall of the Glasgow Rangers: Ethical Ramifications and Lessons to be Learned



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Abstract

In this article we apply business ethics theories (justice, ethics of care, deontology, and utilitarianism) to the actions of Scottish football's Glasgow Rangers FC prior to its 2012 liquidation. In the authors' opinion, justice was not done in Rangers' case. Previous owner David Murray got off relatively lightly; there were no arrests in relation to the tax fraud involving Rangers. Rangers' punishment did not fit the crime; even though it was demoted in the league (to the fourth-division backwater of League Two), it climbed relatively quickly to be one of the biggest clubs in Scottish football again. In our opinion, we could make a case for Rangers to be stripped of name and history as a deterrent to other football clubs. Using utilitarianism, we can see that Murray's actions caused short-term happiness in the club; there was no concern for the longer term which ultimately saw the consequences of these actions cause more unhappiness than good. A further lesson that can be learned is that individual boards of directors must remain independent of the owner.

Keywords: Employee Benefit Trusts; Football history; Football and taxation; Glasgow Rangers; Rangers FC; Rangers' liquidation; Scotland; Scottish football

Introduction

In 2012, shockwaves were sent through Scottish Football when Rangers FC owner Craig Whyte formally filed for the club to enter administration, during a court battle over a tax bill owed to Her Majesty's Revenue and Customs (HMRC) totaling £49million, including penalties from failing to pay tax previously¹. This tax bill Rangers faced arose from a row under previous owner David Murray, in which it was discovered that Murray had been using Employee Benefit Trusts (EBTs) between 2001 and 2010 to pay his players' and staffs' wages. HMRC argued that Rangers had managed to avoid paying substantial amounts of tax whilst using this scheme. This decision made by Craig Whyte left Rangers fans confused and concerned as to what would happen to their club and left fans of other Scottish clubs concerned about the future of Scottish football without one of the biggest clubs. In June 2012, a Company Voluntary Agreement set out by new prospective owner Charles Green was rejected by HMRC which left Green to buy Rangers' assets and form a new company, whilst liquidating the old business and confining Rangers to the lowest tier of professional Scottish football, the fourth-division (League Two).

Many fingers can be pointed at Craig Whyte as the reason to Rangers' financial failure. Whyte's contribution to Rangers started in May 2011, when Murray sold his 85.3% share to Whyte for £1, believing that Whyte could invest deeply in the club and stadium, as well as sort out another tax case the club had faced during the time, worth around £2.8million. In order for Whyte to pay off the tax liability, and to invest in the future of Rangers, he borrowed £26.7million from Ticketus, against the next three season ticket sales; Ticketus then launched its own legal battle with Rangers and Whyte in order to receive this money back. Whyte's history had begun to be found out more after he became involved with the club, as it was acknowledged by Rangers that Whyte had been banned previously as a company director, and then further investigations by the Scottish Football Association found that Whyte was not 'fit and proper' to run a football club. Murray also states that he regrets the sale of the club to Whyte, stating that, if he had known more about him, the sale would not have gone through.

Sir David Murray must also be in consideration for the blame for Rangers' demise, due to the massive financial crisis he left the club in. Under his ownership, Rangers was hugely successful

¹This article is an extended version of an essay submitted for the module Business & Professional Ethics by the last five-mentioned authors in 2017-18. The module was taken by these five students so as to fulfil the requirements of the Accounting Honours programme at the University of the West of Scotland.

with Murray's extravagant spending; however, this led to the club reporting massive debts and large annual losses during this period. Rangers even reached a net debt of £82million in 2003 during the peak of Murray's ownership. Fans did eventually realize the cost this success meant for Rangers, as, in 2009, they urged Murray to sell his share in the club, with Lloyds Banking Group looking to recover debts owed to them, which were estimated to be £25-£30million. Walter Smith, manager of Rangers at the time, even said that effectively Lloyds Banking Group was in charge of the club's spending, which also meant uncertainty involving the future of the club's players.

Rangers' demise has not gone unnoticed; one of the most successful football teams - in terms of trophies - failed and collapsed despite assurances from many influential figures that the club would be safe. Players and staff were left facing uncertain futures and supporters left potentially having no team to support. This article looks into how (un)ethically Rangers acted during this period and how the club's owners' actions, pre-administration and during administration, effectively pushed a financially sinking ship underwater.

Justice

Justice, according to the Cambridge dictionary [1], is the fairness in which people are dealt with. By using tax avoidance schemes, Rangers Football Club gained an unfair sporting advantage and therefore acted in an unethical manner. So, it must be considered whether the company was punished fairly for acting unethically and whether the company was punished in line with other football scandals that happened previously.

As Rangers was punished for tax avoidance, it is necessary to look into the punishments that have been handed out in similar cases. Any company that uses understatement or concealment can be punished by up to 200% of the tax due. This includes companies which move money to secret bank accounts and companies which use false contracts to facilitate paying less tax [2]. In fact, the penalties for tax avoidance can be as severe as lengthy prison sentences, as occurred in various cases in 2016. For example, four men were sentenced to a total of 29 years for falsely inflating company expenses by more than £275million. In another case, two men were sentenced to a total of 19 years when they fraudulently claimed more than £5million in gift aid payments [3]. Therefore, it can be seen that the punishments for tax avoidance can be very serious and severe.

The ethics of Rangers' collapse are very similar to that of Enron, as that company's collapse had huge financial implications for its staff and the taxpayers. The case of Enron occurred in 2001 and it is still one of the most famous cases of tax avoidance in the world. Enron had grown to become one of the largest companies in America and this was partly due to the fact that it was using Mark to Market accounting procedures, whereby the company would measure the value of an asset based on its current market value rather than its book value. Enron would transfer any losses to its subsidiaries, allowing the company to look more profitable

[4]. It was found out that the company had paid no income tax between the years of 1996 and 1999, which, although not explicitly illegal, was still highly unethical [5]. As the company went into bankruptcy, most of the company's staff members were unable to sell their shares because of 401K restrictions, leaving many of them without life savings [6]. However, what is different about Rangers' situation is the fact that none of the directors has been sentenced to any prison time. Therefore, in that sense justice hasn't been done. Although Enron had much higher debts than Rangers, the comparison is still relevant as both companies cheated the taxpayer.

Rangers Football Club also acted unethically in a sporting sense and did not act with sporting integrity. Rangers used Employee Benefit Trusts to pay players in loans rather than in pay, thus avoiding tax, with Chairman David Murray claiming: "It gave us an opportunity to get players that we perhaps would not be able to afford" [7]. The company incurred significant debt in this period and made losses of tens of millions of pounds year on year. Rangers was able to win various trophies, with players that it couldn't afford and in doing so gained an unfair advantage [8,9].

Again, to conclude whether justice has been served, it is necessary to look into other football scandals and observe what punishments were handed out in those cases. One of the most famous cases was the Calciopoli scandal, which happened in Italy in 2006, where several top Italian clubs (including Juventus) were found to have been fixing matches by selecting referees who would be favorable in their decisions. Juventus used this method in a match between themselves and Lazio which had championship significance at the end of the 2005/06 season; the referee in charge was known to be favorable towards Juventus. Boeri and Severgnini [10] suggest that, if the referee was not favorable towards Juventus, then he would not be selected for other important matches again where the referee payment is higher. As another aspect of the scam, players in other matches not involving Juventus would be wrongfully dismissed so that they would be unavailable to face Juventus. Several other clubs found to be guilty of this scam, AC Milan and Fiorentina, were both deducted points for the following season and were demoted to the second tier. Juventus had the exact same punishment but was also stripped of its 2004/05 and 2005/06 titles [11].

The Calciopoli scandal was huge in terms of worldwide football with important clubs being involved, but the case of Gretna Football Club is perhaps equally important as what happened took place in Scotland with the Scottish Football Association (SFA) presiding over the punishment. Gretna was a small club which came from playing in the non-professional Unibond League in England to represent Scotland in European competition within a matter of six years. With the financial backing of millionaire Brooks Milesen, the team had three successive promotions and took its place in the final of the premier cup competition in Scotland, before representing Scotland in the Uefa Cup. However, as Milesen took ill, the

finances of the football club began to crumble with the club eventually being liquidated. The newly formed club, based in the town, had to start from the very bottom as Gretna 2008 [12]. It presently plays in the Lowland League, which is the fifth tier of Scottish football.

Both of these cases are significant for the Rangers' situation as the punishments that were handed out to the Italian clubs and to Gretna were not handed out to Rangers. Rangers FC has not been stripped of the trophies that it won in its period of gaining an unfair advantage and it was not automatically demoted to the lower divisions (below League Two). In fact, every club in Scotland was given the right to vote as to whether the new Rangers club should remain in the top division after its liquidation [13]. One could argue that, had Rangers been allowed to stay in the top division (the Premier League), it would not have been punished at all for its wrongdoing.

Therefore, although the use of EBTs by Rangers was not illegal, the practice still allowed Rangers to attract a higher calibre of player than it could have otherwise afforded. Furthermore, the use of EBTs has subsequently been outlawed to stop other companies using them. Rangers cheated the taxpayer and many creditors out of millions of pounds and therefore it was hugely unethical behavior. The question as to whether it was punished fairly is harder to answer. But, by looking at the evidence for tax avoidance and the punishments handed out in the previous footballing cases, it could be argued that Rangers was not punished in line with the standards that had already been set.

Ethics of Care

The two moral demands placed by the ethics of care theory within a business setting are:

- a) Preserving relationships with all stakeholders; and
- b) Exercising special care with the stakeholders by attending to their needs, values, and desires.

And within these there are four elements of care ethics as noted by Tronto [14];

- a) **Attentiveness** - the requirement to recognize stakeholders' needs and to respond to them;
- b) **Responsibility** - although ambiguous and not the right of obligation (situation where a reaction or action is due), it does however allow for ebbs and flows between gender roles and class structure, that ties responsibility to those befitting the roles;
- c) **Competence** - to provide the necessary care, not to simply acknowledge it but to accept responsibility to provide it; and
- d) **Responsiveness** - another method to understand vulnerability inequality by understanding what has been expressed by stakeholders.

When asking how an institution such as Rangers could end up in liquidation, we have to look at the ethical dilemmas faced by this and ask if all was done to protect the stakeholders within the company. Rangers had been carrying debts to fund its success and ambitions and, while trying to maintain these, it ran into serious tax problems resulting from the payments of employees through EBTs, of which over £50million back tax was due; this resulted in the current process of liquidation being carried out.

Stakeholders within a football company can be split into two groups:

- a) A group that is primarily concerned with the ability to provide success with no emphasis placed on sustainability (fans etc.); and
- b) A group that is concerned with the club as a business and its ability to continue as a profit-making entity (this includes shareholders, directors, employees from playing staff to administrative staff, creditors etc.)

When looking at the collapse of Rangers, the ethical questions posed to these two different groups of stakeholders will have differing answers. It can be argued that the ethics of care was initially provided to this first group of stakeholders as the main focus was on the success of the club (Attentiveness to the fans' wants and needs). Enabling the club to obtain far superior players is giving the fans what is required to be able to provide the success, but then you have to question the price to be paid.

Inevitably, the use of EBTs and subsequent tax demands, which led to liquidation, eventually breached the care duty owed to the fans (Responsibility, Competence, and Responsiveness) as a result of the death of the club (the club-versus-company debate is one for the legal teams of HMRC to sift through); the ethic of care was breached by the directors, owners, and shareholders in that respect due to their decisions in allowing the club's finances to be perilous, and leaving the fans with an inferior team languishing in the depths of the football leagues with very little opportunity to increase revenues and become successful. So how could the club have acted morally and ethically to provide the care to maintain a sustainable business? Well, the main issue would have been to operate within its financial limits, with the addition of playing staff and their remunerations being within financial constraints and also being legal within the tax system.

Deontology

Deontology is an ethical theory that uses rules to distinguish right from wrong. It is based on the work of the famous philosopher Immanuel Kant, who believed that ethical actions follow universal moral laws. These laws dictate where the ethical limits stand and simply require that people follow the set rules and do their duty. The theory does not require weighing the costs and benefits of a situation because, unlike consequentialism, it does not judge actions by their results and therefore avoids uncertain-

ty and subjectivity. However, there is also a significant limitation in following deontology, which is the fact that many people find it unacceptable. A classic example illustrates this point: suppose an engineer learns that a nuclear missile is about to launch and start a war but he has the skills to hack the network and cancel the launch. Although breaking into any software system without permission is against the employee professional code of ethics, letting the missile launch will lead to thousands of deaths. According to the theory, it is right not to violate this rule; however personal moral values may dictate the person to act otherwise.

In the case of the liquidation of the world-famous Rangers Football Club, a breach of ethical codes happened. The road to disaster started in 1988, when Sir David Murray, one of Scotland's greatest self-made businessmen, bought Rangers and instantly pumped the football club with money. The 1990s turned out to be very successful for Rangers, with just a few minor voices expressing their worry and concern about the road being taken by the club. The owner was wealthy and this wealth was very much built on debt. Murray never worried about bearing hundreds of millions in debt, viewing the problem instead as a necessary stepping-stone to greater rewards. However, it was soon proven that Murray overestimated the amount of debts which he could bear.

At the beginning of the new century, Murray decided that the club required urgent maximization of resources, which steered the club down a path of tax avoidance. Between 2001 and 2010, the club's top players were remunerated via EBTs, which, according to the law, implies that employees are supposedly loaned rather than paid. As a result, he managed to escape tens of millions of pounds through the scheme. Nevertheless, this soon triggered a chain of events, which led to HMRC pursuing the club for unpaid taxes. Since then, Rangers has twice won its tax dispute with the authorities, as the gap in the regulation that Murray has found resulted in the club being found to have stayed within the law. Nevertheless, the scandal led to the club's ambitions being squeezed and Murray wanting an exit.

However, selling Rangers became a problem, due to the fact that few wanted to buy the club because it might possibly have had an unpaid tax bill of tens of millions. It took over three years until a buyer was found, allowing Murray to leave the scene. Craig Whyte bought the club for the price of £1, promising major changes. But these changes never happened, and the club continued to cease to pay tax and build up debt. The road to destruction ended in 2012 when the club's creditors' agreement failed and Rangers was consigned to liquidation by HMRC.

Coming back to the example of a software engineer who had a choice of preventing a nuclear war or following professional code of ethics, it can be concluded that, in the case of Rangers Football Club, the owners decided to launch the bomb, and they did this continuously. Murray's ideology reflects the fact that he has viewed debt as a means to success and tax avoidance as a way to prosperity. Although he followed his own set of rules, he could

not foresee the danger of his actions and the outcomes they were leading to. If he was more concerned with the potential results, in line with consequentialism theory, he would be in a position to measure the advantages and disadvantages of his decisions, which would perhaps have led to different and more responsible actions. So, although following the rules makes deontology easy to apply, it also means disregarding the possible consequences of our actions when determining what is right and what is wrong.

Utilitarianism

Utilitarianism theory is based on a moral code; acts should be judged as right or wrong based upon their actual consequences [15]. Everything else achieved is only good or bad according to its tendency to produce happiness or unhappiness. Individuals using this theory consider an action to be right if it maximizes the overall wellbeing of society and wrong if it does not. Businesses applying utilitarianism will engage in activities that increase their profits while, at the same time, best serve the interests of their customers, community, and the government [16].

Sir David Murray's running of Rangers defied this moral theory on several different occasions with respect to the customers, community and/or government. Murray's spending yielded huge short-term gains but was the catalyst for the longer-term problems which Rangers faced. Murray spent amounts of cash acquiring players and paying wages which were unheard of in Scottish football at the time. These assets allowed Rangers to dominate Scottish football during the 1990s. Applying the theory here suggests that the actions were a good thing for the customers (fans) as it brought them happiness when they saw their team take trophies. This hugely benefited the community as with large wins comes in large revenues and Rangers could employ more locals in their area of Ibrox; these wins were also beneficial for the taxman for increased revenue equals increased corporation tax. However, this was a dangerous cocktail of success as it led Murray to state that "for every five pounds [arch-rivals from across Glasgow's sectarian divide] Celtic spends we will spend ten".

The long-term ramifications were starting to show as, in 1999, the Bank of Scotland secured a floating charge over the club; two years later Rangers' debt stood at £50million. It was around this time that Rangers employed EBTs. While these were technically allowed, Rangers employed over 80 individual workers on these contracts, compared to Celtic only having one person on this type of contract. Applying the theory, we feel that these EBTs did break a "moral (utilitarian) duty". This allowed Rangers to avoid taxation and National Insurance for solely the company's benefit. This would have resulted in a loss of tax receipts and national insurance for the government; you can see this would be "bad" from the government's point of view. This eventually affected the community and customers later down the line, as, by September, the taxman had given Rangers a final warning over a £49million tax bill due. This eventually led to administrators taking control and freezing the assets. The

damages of the EBTs now hit the fans (customers) as their trust in the club was completely broken. The community was also badly affected by this as Rangers went into liquidation. Ordinary creditors, including small businesses, received nothing while HMRC is still in the process of trying to recover its tax bill.

Conclusion

In regard to ethics of care within a business setting, the lessons that can be learned from these breaches are that directors must stay within a reasonable spending limit, which should be a main objective of all companies. However, within Rangers, reviewing its downfall leads us to believe that its dream of conquering the European Cup was more important to it than were wise restraints on spending. The lesson learnt from this is that, while a company should dream big dreams, those dreams should be acted upon in a sustainable and realistic manner.

In the authors' opinion, justice was not done in Rangers' case. David Murray got off relatively lightly; there were no arrests in relation to the tax fraud involving Rangers. To save this happening again, there must be a united front from HMRC and the governing bodies that make the rules for football. Rangers' punishment did not fit the crime; even though it was demoted in the league, it climbed relatively quickly to be one of the biggest clubs in Scottish football again. In our opinion, we could make a case for Rangers to be stripped of name and history as a deterrent to other football clubs. History is an important part of any football club; we feel the stripping of this would be the strongest punishment for any club. HMRC fully restricted EBTs, and the case created a precedent that tax and national insurance must be repaid.

The lessons learned from the ethics we have discussed are quite plain to see. Using utilitarianism, we can see that David Murray's actions caused short-term happiness in the club; there was no concern for the longer term which ultimately saw the consequences of these actions cause more unhappiness than good. A strong ethical duty must be the backbone of a company and instilled from the owner and the board. A further lesson that can be learned is that individual boards of directors must remain

independent of the owner; Murray had too much influence and too much power over his board, this led to decisions that were in the best interests of Murray's dreams and goals but not in the long-term best interests of the club. Decisions, such as the EBTs and financing debt with loans from his other companies, should have been scrutinized by his board more closely. An owner shouldn't be able to spend what he wants; a club should only spend based on its own revenues and serviced debt, and not based on the owner's wealth. This is what UEFA is trying to achieve with its financial fair play rules.

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